



FILED

11-30-07
12:34 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

ADMINISTRATIVE LAW JUDGES' RULING EXTENDING COMMENT DEADLINES AND ADDRESSING PROCEDURAL MATTERS

1. Summary

This ruling extends the opening and reply comment periods for type and point of regulation issues in the electricity sector, opening and reply comment periods for emission reduction and modeling issues, and supplemental reply comment period on allocation issues. In addition to extending the comment periods related to emission reduction measures and modeling issues, this ruling corrects prior material (Attachment E) and provides additional material in Attachments A, B, and C regarding modeling issues that parties may address in their comments. This ruling accepts Dynegey's,¹ Environmental Defense's, Caithness Energy, LLC's (Caithness), FPL Energy Project Management, LLC's (FPL), and South Coast Air Quality Management District's (SCAQMD) comments on allocation issues, and CalEnergy Operating Corporation

¹ In its comments, Dynegey identifies itself as Dynegey Morro Bay LLC, Dynegey Moss Landing LLC, and Dynegey South Bay, LLC.

(CalEnergy) comments on the June 30, 2007 Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California" (Market Advisory Committee report). Motions for party status filed by CalEnergy, FPL, and Caithness are granted. Finally, this ruling incorporates into the record the Market Advisory Committee report.

2. Northern California Power Agency's Motion to Extend Comment Period for Type and Point of Regulation Comments

On November 9, 2007, we issued a ruling soliciting comments on type and point of regulation for the electricity sector. Opening comments were due no later than November 28, 2007 and replies were due no later than December 12, 2007. On November 13, 2007, Northern California Power Agency (NCPA) requested a one week extension to the opening and reply comments filing deadlines. To allow more time for parties' comments, we grant in part NCPA's motion. Opening comments will be due no later than December 3, 2007, and replies will be due no later than December 17, 2007. In all other aspects, NCPA's motion is denied.

3. Schedule for Comment Cycle on Modeling Issues and Emission Reduction Measures Is Extended

On November 9, 2007, we issued a ruling soliciting comments on a California Public Utilities Commission (Public Utilities Commission) Staff white paper on available emission reduction measures, comments on the Energy and Environmental Economics, Inc. (E3) modeling methodology, and any overall comments that parties may have on E3's model. Attachment B of the November 9, 2007 ruling contains a detailed description prepared by E3 of its modeling methodology, data sources and preliminary input assumptions. At the November 14, 2007 workshop, E3 presented its preliminary numerical input assumptions and preliminary model results for Stage 1 of the modeling process.

During the process of preparing for the workshop, E3 realized that the detailed description of its modeling methodology contained in Attachment B of the November 9, 2007 ruling had several minor errors. Specifically, the page numbers for some sections referenced in the table of contents did not match the pagination in the rest of the document and several tables in Section 28 were inadvertently truncated. Attachment E to this ruling contains a corrected version of Attachment B of our November 9, 2007 ruling. Attachment E has also been posted on E3's website.

E3 has finalized its Stage 1 modeling results and input assumptions. This information along with more detailed information about different scenarios that E3 has modeled has been posted on its website (http://www.ethree.com/cpuc_ghg_model.html). For completeness of the record, we have included three documents posted on E3's website. Attachment A is a document that details changes in the documentation of E3's modeling methodology that was contained in Attachment B of our November 9, 2007 ruling. Attachment B contains the final Stage 1 results for the business-as-usual scenario. Attachment C contains the Stage 1 modeling results for the aggressive policy scenario.

To facilitate preparation of comments and to avoid having multiple comments due at approximately the same time, we permit opening comments to be filed no later than January 4, 2008, and replies to be filed no later than January 18, 2008. These comments will be in lieu of those permitted in the November 9, 2007 ruling and may address any area of the E3 modeling process including modeling methodology, input assumptions, results, and data sources. Parties may also address the Public Utilities Commission Staff white paper on

available emission reduction measures that was attached to the November 9, 2007 ruling.

4. Supplemental Reply Comments on Allocation Issues

At the November 5, 2007 workshop on greenhouse gas allowance allocation issues, some parties requested an opportunity to provide supplemental information regarding positions they took in initial comments filed on October 31, 2007. In a November 8, 2007 email, we allowed parties to provide supplemental information in the reply comments due November 14, 2007. Any such supplemental information was to be identified as such and included in a separate section in the reply comments. We authorized parties to file supplemental reply comments no later than November 28, 2007, limited to responses to the supplemental information, if any party included such supplemental information in their reply comments. Pacific Gas and Electric Company (PG&E) and Southern California Public Power Authority (SCPPA) filed supplemental information in their reply comments. On November 21, 2007, we granted in an email, the Division of Ratepayer Advocates' request to address in supplemental reply comments an allocation proposal contained in the Western Resource Advocates' opening comments. We affirm a November 15, 2007 email, in which we granted SCAQMD permission to late file comments on November 16, 2007 addressing allocation issues. To provide parties with adequate time to address PG&E's and SCPPA's supplemental information, Western Resources Advocates' alternative allocation proposal, and SCAQMD's late filed comments, we extend the deadline for supplemental reply comments on allocation issues to December 7, 2007.

5. Acceptance of Comments on Allocation Issues and Market Advisory Committee Report

Consistent with prior emails, we accept Caithness', FPL's, Dynegy's and Environmental Defense's comments on allocation issues. We also accept CalEnergy's comments on the Market Advisory Committee report.

6. Motions for Party Status Granted

On August 6, 2007, CalEnergy filed a motion requesting party status. CalEnergy is the operator of ten geothermal power plants in the Salton Sea area, and states that determinations in this rulemaking will have significant impacts on CalEnergy's business in California. Consistent with a prior email, CalEnergy's motion is granted.

On October 31, 2007, FPL filed a motion requesting party status. FPL is a clean generating independent power producer in California and has particular concerns that cannot be addressed by other parties to this proceeding. In its motion, FPL claims that its contentions will not expand the scope of this proceeding and will be reasonably pertinent to those already presented without prejudice to other parties. FPL's motion is granted.

Through a motion filed on November 1, 2007, Caithness requests it be given party status in this proceeding. Caithness is the owner or co-owner of several renewable and conventional power plants in California. According to Caithness, it will be directly affected by any recommendations on allocation methodology that the Public Utilities Commission may adopt. Caithness' motion is granted.

7. Incorporation of Market Advisory Committee Report into the Record

In a July 19, 2007 ruling, we requested comments and legal briefs on certain issues raised by the June 30, 2007 Market Advisory Committee report. By

this ruling, we incorporate into the record in Rulemaking (R.) 06-04-009 the June 30, 2007 Market Advisory Committee report, a copy of which is contained in Attachment D.

8. Filing Requirements

All parties filing comments or reply comments shall file them at the Public Utilities Commission's Docket Office and shall serve them consistent with Rules 1.9 and 1.10 of the Public Utilities Commission Rules of Practice and Procedure and Resolution ALJ-188. The parties shall serve their comments and reply comments on the service list for R.06-04-009 posted at www.cpuc.ca.gov when the filings are made, and shall mail a hard copy of the filings to the assigned Commissioner and assigned Administrative Law Judges.

To support the ability of the Public Utilities Commission and the Energy Commission to develop joint recommendations to the California Air Resources Board, we ask that parties submit their comments and reply comments, both in R.06-04-009 and to the Energy Commission's Docket 07-OIIP-01.

Procedures for submitting the filings to the Energy Commission are included here for the parties' convenience. The Energy Commission encourages comments by e-mail attachments. In the subject line or first paragraph of the comments, include **Docket 07-OIIP-01**. When naming your attached file, please include your name or your organization's name. The attachment should be either in Microsoft Word format or provided as a Portable Document File (PDF).

Send your comments to docket@energy.state.ca.us and to project manager Karen Griffin at kgriffin@energy.state.ca.us. In addition to electronic filing, **one paper copy** must also be sent to:

California Energy Commission
Docket Office, MS-4
Re: Docket No. 07-OIIP-01
1516 Ninth Street
Sacramento, CA 95814-5512

IT IS RULED that:

1. The August 6, 2007, motion for party status filed by CalEnergy Operating Corporation (CalEnergy) is granted. Cathy S. Woollums is added to the service list representing CalEnergy as a party, and Mitchell L. Pirnie, Richard W. Raushenbush, and Robb W. Kapla are added to the information only portion of the -service list:

Party: Cathy S. Woollums
Sr. Vice President,
Environmental and Chief Environmental Counsel
MidAmerican Energy Holdings Company
106 E. Second Street
Davenport, IA 52801
Telephone: (563) 333-8009
Email: cswoollums@midamerican.com

Information Only: Mitchell L. Pirnie
Vice President and General Counsel – CalEnergy
MidAmerican Energy Holdings Company
1111 South 103rd Street, 7th Floor
Omaha, NE 68124
Telephone: (402) 231-1649
Facsimile: (402) 231-1658

Information Only Richard W. Raushenbush
Latham & Watkins LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111-2652
Telephone: (415) 391-0606
Facsimile: (415) 395-8095
Email: richard.raushenbush@lw.com

Information Only Robb W. Kapla
Latham & Watkins LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111-2562
Telephone: (415) 391-0600
Facsimile: (415) 395-8095
Email: robb.kapla@lw.com

2. The October 31, 2007, motion for party status filed by FPL Energy Project Management, Inc. (FPL) is granted. Diane Fellman is added to the service list representing FPL as a party:

Party: Diane Fellman
Director, Regulatory Affairs
FPL Energy Project Management, Inc.
234 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-6000
Facsimile: (415) 703-6001
Email: diane_fellman@fpl.com

3. The November 1, 2007, motion for party status filed by Caithness Energy, LLC (Caithness) is granted. Joseph Greco is added to the service list representing Caithness as a party:

Party: Joseph Greco
Vice President-Western Region
Caithness Energy, LLC
9590 Prototype Court, Suite 200
Reno, NV 89521
Telephone: (775) 850-2245
Facsimile: (775) 851-8240
Email: jgreco@caithnessenergy.com

4. Caithness' comments on allocation issues are accepted for filing on the date they were submitted for filing, November 1, 2007.

5. Dynegy's comments on allocation issues are accepted on the date they were submitted for filing, October 31, 2007.

6. FPL's comments on allocation issues are accepted on the date they were submitted for filing, October 31, 2007.

7. Environmental Defense's comments on allocation issues are accepted as late-filed on the date they were accepted for filing, November 2, 2007.

8. CalEnergy's comments are accepted on the date they were submitted for filing, August 6, 2007.

9. South Coast Air Quality Management District's (SCAQMD) comments on allocation issues are accepted as late-filed comments on the date they were submitted for filing, November 16, 2007.

10. In response to a motion filed by the Northern California Power Agency (NCPA), opening comments on type and point of regulation for the electricity sector are due no later than December 3, 2007 and replies are due no later than December 17, 2007. In all other aspects, NCPA's motion is denied.

11. As directed in this ruling, parties may file comments no later than January 4, 2008 and reply comments no later than January 18, 2008, addressing the Public Utilities Commission Staff white paper on available emission reductions and on the Energy and Environmental Economics, Inc. greenhouse gas modeling methodology contained in Attachments A and B of the November 9, 2007 ruling, as corrected in Attachment E to this ruling; and changes to the modeling methodology contained in Attachment A and Stage 1 model results contained in Attachments B and C to this ruling.

12. As directed in this ruling, parties may file supplemental reply comments no later than December 7, 2007, addressing the supplemental information contained in Pacific Gas and Electric Company's and Southern California Public Power Authority's reply comments, the November 16, 2007 comments of SCAQMD, and the Western Resources Advocates alternative allowance allocation methodology contained in its October 31, 2007 comments.

13. The June 30, 2007 Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California" (Attachment D to this ruling) is incorporated into the record in Rulemaking (R.) 06-04-009.

14. Parties shall file their comments (opening, reply and supplemental reply) at the Public Utilities Commission's Docket Office and shall serve them consistent with Rules 1.9 and 1.10 and Resolution ALJ-188. The parties shall serve their filings on the service list for R.06-04-009 posted at www.cpuc.ca.gov when the filings are made, and shall mail a hard copy of the comments to the assigned Commissioner and the assigned Administrative Law Judges.

Dated November 30, 2007, at San Francisco, California.

/s/ CHARLOTTE F. TERKEURST

Charlotte F. TerKeurst
Administrative Law Judge

/s/ JONATHAN LAKRITZ

Jonathan Lakritz
Administrative Law Judge